

This article was downloaded by: [ECU Libraries]

On: 21 April 2015, At: 02:46

Publisher: Routledge

Informa Ltd Registered in England and Wales Registered Number: 1072954

Registered office: Mortimer House, 37-41 Mortimer Street, London W1T 3JH, UK



The Mariner's Mirror

Publication details, including instructions for authors and subscription information:

<http://www.tandfonline.com/loi/rmir20>

A DAY IN WESTMINSTER HALL, 1797

G. E. Cooper

Published online: 22 Mar 2013.

To cite this article: G. E. Cooper (1922) A DAY IN WESTMINSTER HALL, 1797, The Mariner's Mirror, 8:2, 35-38, DOI: [10.1080/00253359.1922.10655082](https://doi.org/10.1080/00253359.1922.10655082)

To link to this article: <http://dx.doi.org/10.1080/00253359.1922.10655082>

PLEASE SCROLL DOWN FOR ARTICLE

Taylor & Francis makes every effort to ensure the accuracy of all the information (the "Content") contained in the publications on our platform. However, Taylor & Francis, our agents, and our licensors make no representations or warranties whatsoever as to the accuracy, completeness, or suitability for any purpose of the Content. Any opinions and views expressed in this publication are the opinions and views of the authors, and are not the views of or endorsed by Taylor & Francis. The accuracy of the Content should not be relied upon and should be independently verified with primary sources of information. Taylor and Francis shall not be liable for any losses, actions, claims, proceedings, demands, costs, expenses, damages, and other liabilities whatsoever or howsoever caused arising directly or indirectly in connection with, in relation to or arising out of the use of the Content.

This article may be used for research, teaching, and private study purposes. Any substantial or systematic reproduction, redistribution, reselling, loan, sub-licensing, systematic supply, or distribution in any form to anyone is

expressly forbidden. Terms & Conditions of access and use can be found at <http://www.tandfonline.com/page/terms-and-conditions>

to be made in clearing up the many doubtful points that still exist in the domain of Nautical Archæology. The difficulty is that they do not realise how desirable it is that they should take a more active part in the work. There are two very good reasons why they should do so ; first, the unpleasant truth that THE MARINER'S MIRROR will have to become smaller or to appear at longer intervals if they do not ; second, the more attractive consideration, that the more people there are to help the more progress can be made in the reconstruction of that section of the past to which our Society is devoted. Another less important reason is that a more regular flow of copy would relieve the Editor from the constant anxiety of a hand-to-mouth existence.

A DAY IN WESTMINSTER HALL, 1797.

BY G. E. COOPER.

A RAMBLING and perhaps not very valuable essay might be written about the way in which the influence of the sea and its followers crop up unexpectedly in the byways of English history and literature, although in the old days of sail the seaman led an extraordinarily isolated and limited existence. Yet—as casual examples—Jane Austen hardly touches the public life of her time except through the Navy ; Lord George Gordon, the crazy fanatic, had been a naval officer ; Newton, Cowper's evil genius, was a reformed slaver, and Doctor Johnson was once seriously annoyed by his black servant, Francis Barber, either being pressed or volunteering into the *Stag*, frigate. The negro, oddly enough, was not keen on obtaining his discharge, so he presumably did not share his master's views with regard to a sea life.

As a very humble novice in the study of the law it has surprised me to discover how frequently the background of a

leading case is supplied by shipping and sailors. It is true that they can often be but dimly discerned through a legal fog, but occasionally even in the driest law reports little human details may be found which shed some light on the life of the past. These reflections were prompted by an accidental reference to Volume I of Bosanquet and Puller's reports of Cases heard in the Court of Common Pleas, for on November 27th, 1797, that Court, presided over by Chief Justice Eyre, had a very nautical day.

The first case was *Keate v. Temple*. Temple had been first lieutenant of the *Boyne*, 98, when she returned to Portsmouth with Sir John Jervis from the West Indies in February, 1795.

The crew at this time were "in general pretty well clothed," but their clothes were light and more suited to the climate of the West Indies than to an English winter. Temple accordingly as a zealous and considerate officer, busied himself in making arrangements to remedy this defect, and finally agreed that the plaintiff Keate, a slop-seller, should supply the men with new clothes. In a rash moment the lieutenant remarked: "I will see you paid at the pay-table—are you satisfied?" and it was this remark which involved him in litigation. In due course the clothes were delivered, not on the main-deck where slops were usually sold, but on the quarter-deck and Temple inspected them to see if their quality was up to sample. Having done so the next step was to serve them out, and now the first lieutenant showed signs of a somewhat autocratic temper, for "some of the men said they were not in want of any cloaths, but they were told by defendant that if they did not take them he would punish them; and others who stated that they were only in want of part of a suit were obliged to take a whole one with anchor buttons to the jacket such as are usually worn by petty officers only." As a result of these persuasions clothes to the value of £576 7s. 8d. were supplied: excellent business for Mr. Keate if he could only get paid.

It is remarkable that throughout this transaction there is no mention of the purser or of any service slop chest.

The next untoward event occurred on May 1st, when the *Boyne* caught fire and blew up at Spithead. The crew were saved, but no doubt most of the smart jackets with anchor buttons were lost and, as the men were dispersed into different ships, Keate's prospects were not rosy. However he had a last chance when the *Boyne's* crew were assembled on board the guard-ship *Commerce de Marseille* to be paid, and it must be said

for Temple that he did his utmost to discharge the debt. "The defendant stood at the pay table and having taken some money out of the hat of the first man who was paid gave it to Keate; the next man refused to part with his pay and was immediately put in irons." Temple then asked the Commissioner to stop the payment, but that official seems to have thought the proceedings somewhat irregular and replied that it could not be done.

As the Chief Justice remarked in his judgment the circumstances of the case created some prejudice against the defendant, but he was inclined to take a charitable view of his conduct for "it was the bounden duty of the officer to take some course to oblige the crew to purchase proper necessaries. We all know that a sailor is so singular a creature, so careless of himself that he cannot, though his life depend upon it, be prevailed upon, without force even to bring up his hammock upon deck to be aired. We know that he will risk any danger in order to employ his money in a way which he likes."

He finally decided the matter before him in favour of Temple.

The next case related to a ship bound for Bilbao, whose enterprising captain broke away from his convoy with the natural result that he was captured by a French privateer.

The arguments in this case were purely legal, as also were those in the suit of *Macdonald v. Pasley* which succeeded it, but the latter case illustrates the unsatisfactory way in which prize money was paid. *Macdonald* had been a seaman in Commodore Johnstone's squadron in 1781. He became entitled to various sums on account of prize-money and in 1789 gave authority to a Mr. Abraham Joseph—presumably for some consideration—to draw these moneys on his behalf. In 1797 these matters were still being debated and in the form in which they came before the court no final judgment was given.

Sparenburgh v. Bannatyne which followed, had a more pleasant result. *Sparenburgh* was a native of Oldenburg, in Germany, who unfortunately for himself was serving as a seaman in the Dutch squadron which was captured at the Cape of Good Hope. He was in fact in custody as a prisoner of war when he brought his action, but between his capture at the Cape and his arrival in England there had been a period when he was treated not only as free but also as a valuable man.

From the Cape he had been sent to St. Helena in a frigate where, shortly after his arrival as a prisoner, the British ship *Caledonia* put in "in great want of hands." *Sparenburgh* was put on board, was treated like the rest of the crew on the voyage

to England, but on arrival was arrested and imprisoned as an alien enemy. He now sued for wages due.

The Chief Justice of the Common Pleas was not at all polite to the defence and whatever remarks he may have made earlier in the day with regard to the character of seamen in general, he was determined that they should have justice.

"This man did his duty faithfully and was duly approved of by the officer of the *Caledonia*. That ship was in such distress that she would probably have been lost without such assistance as was afforded by the plaintiff. He now only asks for a moderate reward and is paid with a plea of alien enemy. This is certainly one of the hardest cases I ever knew."

It was finally held that his status as an alien enemy had determined as soon as he was captured and he then became German (*i.e.*, friendly) again. I express no opinion as to the law of this decision, but at any rate Sparenburgh seems to have got £24.

THE MARINER'S MARVELLOUS MAGAZINE.

BY OLAF HARTELIE.

IN one of the earlier issues of the Society's Journal, a question was asked about a Mariner's Magazine published early in the nineteenth century, and illustrated with cuts of nautical events. So far as a cursory glance through the indices has served me, I am unable to find that any reply was made to the inquirer, and as a book answering to the above description has been brought to my notice, some information about it may be of